

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 365 be amended to read as follows:

- 1 Page 5, between lines 24 and 25, begin a new paragraph and insert:
- 2 "SECTION 8. IC 31-16-12-6 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) If the court finds
- 4 that a party is delinquent as a result of an intentional violation of an
- 5 order for support, the court may find the party in contempt of court. If
- 6 an action or request to enforce payment of a child support arrearage is
- 7 commenced not later than ten (10) years after:
- 8 (1) the child becomes eighteen (18) years of age; or
- 9 (2) the emancipation of the child;
- 10 whichever occurs first, the court may, upon a request by the person or
- 11 agency entitled to receive child support arrearages, find a party in
- 12 contempt of court.
- 13 (b) The court may order a party who is found in contempt of court
- 14 under this section to:
- 15 (1) perform community restitution or service without
- 16 compensation in a manner specified by the court; or
- 17 (2) seek employment.
- 18 **(c) The court may order a party who is alleged to be in contempt**
- 19 **of court under this section to show cause as to why the party should**
- 20 **not be held in contempt for violating an order for support. The**
- 21 **order to show cause must set forth:**
- 22 **(1) the contempt allegations;**
- 23 **(2) the failure to pay child support allegations;**
- 24 **(3) when the court issued the order for support;**
- 25 **(4) the party's history of child support payments;**
- 26 **(5) the specific:**
- 27 **(A) date and time when; and**
- 28 **(B) place where;**
- 29 **the party is required to show cause in the court; and**
- 30 **(6) the party's arrearage.**
- 31 SECTION 9. IC 31-16-12-6.5 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2009]: Sec. 6.5. (a) If a party fails to respond  
 to an order to show cause issued under section 6(c) of this chapter  
 by the date and time specified in the order to show cause, the court  
 may issue a bench warrant for the party to be arrested and  
 brought to the court to respond to the order to show cause.

(b) The court must determine an escrow that a party ordered to  
 show cause under section 6(c) of this chapter is required to deposit  
 with the clerk of the circuit court before the hearing to show cause.  
 If the child support arrearage amount is less than five hundred  
 dollars (\$500), the court shall set the required escrow at the  
 amount of the arrearage. If the arrearage is more than five  
 hundred dollars (\$500), the court shall set the required escrow at  
 not less than five hundred dollars (\$500) and not more than one  
 hundred percent (100%) of the arrearage.

(c) All escrow received by a clerk of the circuit court under this  
 section shall be deposited in a single account. The clerk shall:

- (1) keep an accounting of all money deposited in the escrow  
 account;
- (2) issue a receipt to any person who pays money to the clerk  
 under this section; and
- (3) transfer money out of the escrow account only after  
 receiving an order to transfer money issued by the court that  
 issued the bench warrant.

(d) If a party is arrested under subsection (a), the party shall  
 remain in custody until the hearing to show cause unless the party  
 posts the escrow amount required in the bench warrant.

(e) If a party is arrested outside the business hours of the clerk  
 of the circuit court, the party may post the escrow amount stated  
 in the bench warrant with the arresting officer.

(f) The arresting officer or clerk receiving an escrow amount  
 shall give the party a receipt for the escrow on a form substantially  
 as follows:

"Date: \_\_\_\_\_  
 Escrow received from \_\_\_\_\_ (referred to in this  
 receipt as respondent) to assure the performance of the  
 respondent's child support arrearage. The respondent shall appear  
 for a hearing to show cause at \_\_\_\_\_ (time) on \_\_\_\_\_ (date)  
 at the following address:

\_\_\_\_\_  
 \_\_\_\_\_  
 (Address to be furnish by respondent for receipt of notice.)  
 The hearing is for the respondent to answer an order to show  
 cause. If the respondent is found to be in contempt, further  
 proceedings related to the respondent's contempt may occur.  
 If the respondent fails to appear at the time and date listed above,  
 fails to submit to the jurisdiction of the court, or fails to abide by  
 the court's orders, the Court may direct the Clerk of the Circuit

1 Court to distribute the escrow deposited with the Clerk of the  
2 Circuit Court pursuant to state and federal child support  
3 distribution laws.

4 If the respondent appears at the time and location indicated above  
5 and the Court determines the respondent owes an arrearage under  
6 the support order that is the basis of the order to show cause or  
7 owes any costs to the Court, the Court may direct the Clerk of the  
8 Circuit Court to distribute the escrow deposited with the Clerk of  
9 the Circuit Court pursuant to state and federal child support  
10 distribution laws.

11 By depositing the escrow amount and accepting this receipt, the  
12 recipient of this receipt waives a claim to the money following a  
13 Court order for distribution of child support.

14 Printed name and signature of person receiving escrow deposit:

15 \_\_\_\_\_  
16 Agency or department of person receiving escrow deposit:  
17 \_\_\_\_\_."

18 (g) A law enforcement officer who receives escrow money under  
19 this section shall deposit the money with the clerk of the circuit  
20 court that issued the bench warrant within two (2) business days  
21 after receiving the escrow money.

22 (h) If a party is arrested under subsection (a) and cannot post  
23 the escrow amount required in the bench warrant, the party is  
24 entitled to a hearing within forty-eight (48) hours after the party's  
25 arrest, excluding weekends and holidays, if the court is able to hold  
26 the hearing within that period. If the court cannot hold a hearing  
27 within forty-eight (48) hours, the court shall review the escrow  
28 amount ordered in the bench warrant, may modify the escrow  
29 amount in the bench warrant to ensure that the party appears at  
30 future hearings, and shall set a date for a hearing. At the hearing,  
31 the party shall explain to the court why the party cannot post the  
32 required escrow deposit required by the bench warrant. The party  
33 shall also respond to the court's order to show cause

34 (i) If a party fails to appear at a hearing to respond to an order  
35 to show cause issued under this section after the party deposited  
36 the escrow amount set in the bench warrant, the court shall order  
37 the clerk of the circuit court to distribute the escrow pursuant to  
38 state and federal child support distribution laws. The court may  
39 also issue an additional bench warrant under subsection (a) for the  
40 party to respond to additional contempt charges.

41 (j) If a party posts the escrow amount set in a bench warrant, at  
42 a hearing to respond to an order to show cause under this section,  
43 the court shall determine how the escrow amount deposited is to be  
44 distributed pursuant to state and federal child distribution laws. If  
45 the escrow amount deposited exceeds the arrearage, the party is  
46 entitled to a refund.

47 (k) The court may set aside a finding of contempt under this  
48 section if the court finds, based on the hearing held under this

- 1       **section, that the party is in compliance with the court's orders.**  
2       **(l) If a court finds a person to be in contempt of court under this**  
3       **section, the court may punish the person for contempt of court**  
4       **under IC 34-47.".**  
5       Renumber all SECTIONS consecutively.  
      (Reference is to SB 365 printed February 13, 2009.)

---

Senator STEELE